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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,999	11/04/2003	Catherine G. Quick	CGQ-1	6648
40023	7590	03/08/2005	EXAMINER	
DAVID M. CARTER CARTER SCHNEDLER & MONTEITH, P.A. 56 CENTRAL AVENUE, SUITE 101 P.O. BOX 2985 ASHVILLE, NC 28802			AMERSON, LORI BAKER	
			ART UNIT	PAPER NUMBER
			3764	
DATE MAILED: 03/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/701,999

Applicant(s)

QUICK, CATHERINE G.

Examiner

L. Amerson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14,20-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 and 27 is/are allowed.
- 6) ☒ Claim(s) 14 and 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Arguments***

1. The indicated allowability of claims 19-22 is withdrawn in view of the newly discovered reference(s). Rejections based on the newly cited reference(s) follow. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mat must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claim 23 is objected to because of the following informalities: "including a fabric, said fabric covering said resilient material" should read --including a fabric covering, said covering is made from a resilient material --. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 14, 20-21, and 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Frazier in view of Miller. Frazier discloses a cylindrical (30;fig. 4) exercise cushion (12) having a hollow elongated cavity (fig. 3) and made of a resilient material (col. 1, line 55) and having first and second end having openings (32,34, col. 1, line 69); and having a core pipe (10) with ends (20,22) having a first and second opening (fig. 3) but Frazier does not teach the pipe made from PVC or removable caps. Regarding the language, "whereby the cushion may be rolled on the floor which there is interaction between the infant and the cushion" and "so that certain infant related items may be readily placed therein" has not been given patentable weight because the recitation is purely functional in nature and does not recite any structure. Miller teaches removable

caps (fig. 1-2) and a pipe made from PVC (col. 2, line 4). It would have been obvious to one having ordinary skill in the art to modify Frazier in view of the teaching of Miller such that a pipe is made from PVC for durability purposes. As to claim 20, each cap includes a lip (32) and the pipe has an inner annular surface where the lip engages (fig. 1). As to claim 21, the language has not been given patentable weight because the recitation is purely functional in nature and does not recite any structure. As to claim 23, the fabric covering of Frazier (14; col. 1, line 55) is resilient.

b. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frazier and Miller as applied to claim 20 above and further in view of Wince. Frazier and Miller disclose all of the limitations of the claimed invention above except for the pipe being threaded. Wince teaches a threaded pipe (fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Frazier in view of the teaching of Wince such that pipes are capable of being threaded for the purpose of providing a fastening mechanism.


c. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frazier and Miller as applied to claim 23 above and further in view of Haboush. Frazier and Miller disclose all of the limitations of the claimed invention above except for a mat. Haboush teaches a mat (fig. 1) adapted to be received in the cavity of the cushion.

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d. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frazier and Miller and Haboush as applied to claim 24 above and further in view of Valentini. Frazier and Miller and Haboush disclose all of the limitations of the claimed invention above except for a colorful mat as the same as the fabric. Valentini teaches a painted mat (fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Frazier in view of the teaching of Haboush and Valentini such that color can be added to a mat for the purpose of matching that the fabric of another element.

### ***Conclusion***

5. Claims 26-27 are allowed. Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Amerson whose telephone number is (571) 272-4971. The examiner can normally be reached on Mon.-Fri from 8-5 p.m. Interviews Tue. and Thur.. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



L. Amerson